

DKT. 371-11
PUBLIC REDACTED VERSION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

- - - - - X
HUAWEI TECHNOLOGIES CO., LTD., :
HUAWEI DEVICE USA, INC., and HUAWEI :
TECHNOLOGIES USA, INC., :
Plaintiffs/Counterclaim :
Defendants, :
v. : Case No.
SAMSUNG ELECTRONICS CO., LTD., : 16-cv-02787-WHO
SAMSUNG ELECTRONICS AMERICA INC., :
Defendants/Counterclaim :
Plaintiffs. :
- - - - - X

HIGHLY CONFIDENTIAL - OUTSIDE COUNSELS' EYES ONLY

Videotaped Deposition of Gregory Leonard

Palo Alto, California

Wednesday, June 20, 2018

9:05 A.M.

Job No.: 193655

Pages: 1 - 266

Reported By: Michael P. Hensley, CSR No. 14114, RMR

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Transcript of Gregory Leonard

Conducted on June 20, 2018

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1 GREGORY LEONARD,
2 having been first duly sworn, was examined and testified
3 as follows:

4 EXAMINATION BY
5 COUNSEL FOR THE PLAINTIFFS/COUNTERCLAIM DEFENDANTS
6 BY MR. GIARDINA:

7 Q. Good morning. 09:06:21

8 A. Good morning. 09:06:21

9 Q. Could you say and spell your name for the record 09:06:22
10 please? 09:06:25

11 A. Sure. Gregory Leonard, G-r-e-g-o-r-y 09:06:25
12 L-e-o-n-a-r-d. 09:06:30

13 Q. Dr. Leonard, I know you've been through this 09:06:30
14 drill many, many times. If I ask you a question today 09:06:36
15 that you don't understand, will you let me know? 09:06:38

16 A. Sure. 09:06:39

17 Q. If you need a break at any point, just let us 09:06:40
18 know. Okay? 09:06:43

19 A. Okay. 09:06:44

20 Q. You are an economist and a partner with 09:06:44
21 Edgeworth Economics? 09:06:49

22 A. That's correct. 09:06:49

23 Q. How would you describe Edgeworth's line of 09:06:50
24 business? 09:06:53

25 A. It's an economic consulting firm. 09:06:53

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1 know, my view, as I said there and I still agree with, 10:38:07
2 is that, you know, an opening offer is just that. It's 10:38:13
3 not really that big of a deal. 10:38:16

4 You know, the other agreements that he would 10:38:24
5 have had were the result of a bunch of negotiations in 10:38:27
6 which they learned all sorts of things from the 10:38:31
7 counterparty. And my understanding was they had always 10:38:34
8 started at the same rate as an opening offer with 10:38:37
9 everybody. So from that perspective, they're acting the 10:38:40
10 same way towards Apple that they've acted towards 10:38:45
11 everyone else -- 10:38:49

12 Q. Okay. 10:38:49

13 A. -- up -- you know, at that point. And so, to 10:38:51
14 me, that's not problematic. 10:38:52

15 Q. Okay. So I take it, then, that you would agree 10:38:54
16 with me that it wouldn't have been problematic if Huawei 10:38:56
17 would have started with an opening offer of 1.5 percent, 10:39:00
18 if that was the rate at which it began negotiations with 10:39:03
19 other parties? 10:39:06

20 A. Again, I think I am clear about this. I don't 10:39:07
21 think that standing by itself, which is really what the 10:39:11
22 claims in the Apple and Microsoft litigations were about 10:39:14
23 and Motorola, that, by itself, is not necessarily 10:39:18
24 problematic. 10:39:22

25 So I don't have a problem with an opening offer. 10:39:23

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1 I mean, it's true nonetheless that the opening offer had 10:39:26
2 no basis and that the opening offer isn't a final FRAND 10:39:29
3 rate. 10:39:34

4 So, I mean, that's all certainly true. You 10:39:34
5 know, do I, as an economist, have a problem with them 10:39:36
6 just making it by itself? No, not really. 10:39:40

7 Q. Okay. 10:39:43

8 A. But, you know, then there's a bunch of things 10:39:43
9 that followed upon that. 10:39:46

10 Q. Now, after having made demand for a royalty of 10:39:48
11 2.25 percent on Apple, Motorola sought injunctions 10:39:55
12 against Apple; correct? 10:40:00

13 A. Sorry. Say that again. 10:40:01

14 Q. After having demanded that Apple pay a royalty 10:40:02
15 of 2.25 percent, Motorola sought injunctions against 10:40:04
16 Apple for infringement of its SEPs? 10:40:09

17 MS. MAROULIS: Objection. Form. 10:40:14

18 A. I don't remember the full sequence of events in 10:40:15
19 that case. But, you know, there's obviously a bunch of 10:40:20
20 litigation of various types going both ways. 10:40:23

21 And as I mentioned before, I think once you get 10:40:26
22 into litigation, it's a lot harder to make judgments 10:40:29
23 about, you know, somebody offering or seeking an 10:40:33
24 injunction because of, there could be things going on -- 10:40:37
25 on the other side that -- you know, injunction -- in 10:40:41

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1	Q. Okay. Well, if we continue to look at this	13:19:24
2	section of your report, at page 63, in the next	13:19:27
3	paragraph, you describe that Huawei revised its proposal	13:19:31
4	in May of 2015 and then followed that revision with a	13:19:36
5	July 2015 term sheet.	13:19:44
6	Do you see that?	13:19:46
7	A. Yes.	13:19:47
8	Q. And Huawei then reduced its royalty on LTE units	13:19:47
9	from the [REDACTED] we've just been discussing to a [REDACTED]	13:19:55
10	correct?	13:20:03
11	A. That is correct.	13:20:03
12	Q. And that's the nonambiguous reduction?	13:20:03
13	A. Yes.	13:20:08
14	Q. Okay. And have you assessed what the effective	13:20:08
15	rate would be at a royalty of a [REDACTED] a unit for	13:20:19
16	Samsung's LTE sales?	13:20:26
17	A. I don't think I calculated an effective rate for	13:20:30
18	that proposal.	13:20:42
19	Q. Okay.	13:20:42
20	A. That I can recall.	13:20:44
21	Q. Now, Mr. Lasinski presented an effective rate	13:20:44
22	calculation for that proposal. I -- I don't observe	13:20:52
23	in -- in your rebuttal report any effort to dispute that	13:20:54
24	calculation. Do you have any disagreement with it?	13:20:56
25	MS. MAROULIS: Objection. Form.	13:21:01

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1 CERTIFICATE OF SHORTHAND REPORTER

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3 I, Michael P. Hensley, Registered Merit Reporter
4 for the State of California, CSR No. 14114, the officer
5 before whom the foregoing deposition was taken, do
6 hereby certify that the foregoing transcript is a true
7 and correct record of the testimony given; that said
8 testimony was taken by me stenographically and
9 thereafter reduced to typewriting under my direction;
10 that reading and signing was requested; and that I am
11 neither counsel for, related to, nor employed by any of
12 the parties to this case and have no interest, financial
13 or otherwise, in its outcome.

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18 Michael P. Hensley, CSR, RMR
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